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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JOSE SUSUMO AZANO MATSURA (1),

14 Defendant.

15 Case No. 14cr388-MMA-1

16
17 **ORDER DENYING DEFENDANT'S**
18 **MOTION TO MODIFY**
19 **CONDITIONS OF SUPERVISED**
20 **RELEASE**

21 [Doc. No. 994]

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23 On November 18, 2019, after remand from the United States Court of Appeals for
24 the Ninth Circuit, the Court entered judgment committing Defendant Jose Susumo Azano
25 Matsura to the custody of the Federal Bureau of Prisons for a total term of 36 months.
26 See Doc. No. 985 at 2. The Court imposed a \$560,955.00 fine and \$3,600.00 in special
27 assessments, and sentenced Azano to a three-year term of supervised release following
28 his custodial term. See *id.* at 2-3, 5. The Court imposed mandatory, standard, and special
 conditions of supervised release. See *id.* at 3-4. Azano was released from custody on
 May 11, 2020 and began serving his supervised release term. Azano now moves to
 modify the previously imposed conditions of his term of supervised release. See Doc.
 No. 994. Specifically, Azano requests that the Court revoke special conditions 5 and 6
 which together provide for supervision of Azano's financial activities by United States
 Probation. The government opposes the motion. See Doc. No. 996. For the reasons set

1 forth below, the Court **DENIES** Azano's motion.¹

2 **DISCUSSION**

3 The Court imposed six special conditions of supervised release with which Azano
4 must comply during the period of his supervision. *See* Doc. No. 985 at 4. Azano objects
5 to the following special conditions:

6 5. Provide complete disclosure of personal and business financial records to
7 the probation officer as requested.

8 6. Be prohibited from opening checking accounts or incurring new credit
9 charges or opening additional lines of credit without approval of the probation
officer.

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11 *Id.* Azano argues that "the financial conditions have no relation to the conduct for which
12 Mr. Azano was convicted, serve no purpose in protecting the public, or any other
13 purpose listed by §5D1.3 now that Mr. Azano has paid all his financial obligations."
14 Doc. No. 994 at 3. The government rejects Azano's characterization of his criminal
15 offenses and opposes Azano's requested modification of the conditions of his supervised
16 release.

17 ***1. Relevant Law***

18 "The Sentencing Reform Act affords district courts broad discretion in fashioning
19 appropriate conditions of supervised release, while mandating that such conditions serve
20 legitimate objectives." *United States v. Gementera*, 379 F.3d 596, 600 (9th Cir. 2004). A
21 court "may modify, reduce, or enlarge the conditions of supervised release, at any time
22 prior to the expiration or termination of the term of supervised release." 18 U.S.C. §
23 3583(e)(2). Generally, the conditions of a defendant's term of supervised release must
24 "involve [] no greater deprivation of liberty than is reasonably necessary for the purposes
25 set forth" in section 3553(a). *Id.* § 3583(d)(2). Moreover, such conditions must

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28 ¹ Because the Court declines to modify Azano's conditions of supervised release, no hearing is required.
See Fed. R. Crim. P. 32.1(c). The Court finds Azano's motion suitable for determination without a
hearing.

1 “reasonably relate to a legitimate statutory purpose.” *Gementera*, 379 F.3d at 601.

2 Discretionary or special conditions of supervised release, such as the ones at issue,
 3 may only be imposed “to the extent that such condition-

4 (1) is reasonably related to the factors set forth in section 3553(a)(1) [“nature
 5 and circumstances of the offense and the history and characteristics of the
 6 defendant”], (a)(2)(B) [“seriousness of the offense”], (a)(2)(C) [“protect the
 7 public”], and (a)(2)(D) [“correctional treatment”];

8 (2) involves no greater deprivation of liberty than is reasonably necessary for
 9 the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

10 (3) is consistent with any pertinent policy statements issued by the Sentencing
 11 Commission pursuant to 28 U.S.C. 994(a) . . .”

12 18 U.S.C. § 3583(d). Section 5D1.3 of the United States Sentencing Guidelines
 13 echoes and affirms the requirements set forth in section 3553(a). *See* U.S.S.G. §
 14 5D1.3.

15 2. *Analysis*

16 Azano argues that because he has satisfied the financial component of the
 17 judgment of conviction, special conditions 5 and 6 “are no longer reasonably related to
 18 the reasons for imposing discretionary conditions under the U.S. Sentencing Guidelines .
 19 . . and, therefore . . . provide a ‘greater deprivation of liberty than is reasonably necessary
 20 for the purposes set forth’ under § 5D1.3.” Doc. No. 994 at 2.

21 The Guidelines provide that “a condition requiring the defendant to provide the
 22 probation officer access to any requested financial information” may be appropriate “[i]f
 23 the court imposes an order of restitution, forfeiture, or notice to victims, or orders the
 24 defendant to pay a fine,” U.S.S.G. § 5D1.3(d)(3). The Guidelines further acknowledge
 25 that such a condition “may otherwise be appropriate in particular cases,” *id.* § 5D1.3(d).
 26 This is one of those “particular cases.” *Id.*

27 Azano’s efforts to conceal and cover up the source of his political donations and
 28 contributions resulted in false entries and falsified campaign records in violation of 18
 U.S.C. § 1519, “a provision targeting fraud in financial recordkeeping.” *Yates v. United*

1 States, 574 U.S. 528, 546 (2015) (emphasis added). As such, special conditions 5 and 6
2 are “reasonably related” to the “nature and circumstances” of the committed offenses. 18
3 U.S.C. § 3553(a)(1). Azano was also convicted of multiple violations of the Federal
4 Election Campaign Act of 1971, as amended by the Bipartisan Campaign Reform Act of
5 2002, a statute that requires extensive recordkeeping and disclosure of campaign
6 contributions in an effort “to remedy any actual or perceived corruption of the political
7 process.” *Fed. Election Comm’n v. Akins*, 524 U.S. 11, 14 (1998). Accordingly, special
8 conditions 5 and 6 serve to protect “the public” and the political process “from further
9 crimes of the defendant,” while “promot[ing] respect for the law” and “afford[ing]
10 adequate deterrence to criminal conduct.” 18 U.S.C. § 3553(a)(2).

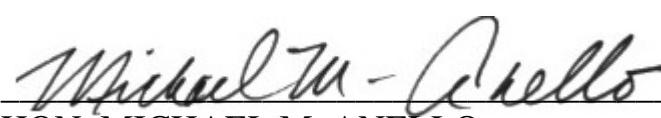
11 Moreover, special conditions 5 and 6 involve “no greater deprivation of liberty
12 than is reasonably necessary” to achieve their purpose. *Id.* § 3583(d)(2). The conditions
13 allow United States Probation the authority to supervise Azano’s legitimate financial
14 activities without restricting his ability to engage in such activities as necessary to
15 support himself, his family, and his businesses. Accordingly, the Court denies Azano’s
16 request to revoke special conditions 5 and 6.

17 **CONCLUSION**

18 Based on the foregoing, the Court **DENIES** Defendant Jose Susumo Azano
19 Matsura’s motion to modify the conditions of his supervised release.

20 **IT IS SO ORDERED.**

21 DATE: June 2, 2020


22 HON. MICHAEL M. ANELLO
23 United States District Judge

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